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Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani

Addendum

Follow-up mission to Georgia** ***

Summary

The present report contains the findings and recommendations of the Special Rapporteur on the human rights of internally displaced persons subsequent to his follow-up visit to Georgia from 10 to 14 June 2013. The objective of the visit was to examine the human rights situation of internally displaced persons in the country since the last assessment made by the previous mandate holder, Walter Kälin, in September 2010.

Although the Government of Georgia has made considerable progress in providing durable solutions for all internally displaced persons and in addressing the issue of those displaced by natural or human-induced disasters, continued efforts to improve the living conditions and livelihoods of internally displaced persons in the collective centres visited are needed, alongside the adoption of an integrated approach to address the situation of all internally displaced persons.

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The establishment of a coiled razor wire fence along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, which deprives internally displaced persons and displacement-affected communities of their freedom of movement and livelihoods, is of major concern. Although the Special Rapporteur did not visit Abkhazia, Georgia, he understood that similar problems exist along the administrative boundary line of Abkhazia. One of the main obstacles in the search for durable solutions for internally displaced persons in Georgia remains the absence of political solutions to the conflict. In that connection, the Special Rapporteur calls upon all parties to approach durable solutions from a humanitarian and development perspective and to take all necessary measures to ensure that all internally displaced persons can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to locally integrate or to resettle elsewhere in the country.

Annex

[English and Russian only]

Report of the Special Rapporteur on the human rights of internally displaced persons on his follow-up mission to Georgia (10–14 June 2013)

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I. Introduction

1. In accordance with his mandate contained in Human Rights Council resolution 14/6 and at the invitation of the Government of Georgia, the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, conducted an official follow-up visit to Georgia from 10 to 14 June 2013. The objective of the visit was to re-examine the human rights situation of internally displaced persons and to follow-up on the visits conducted by his predecessor, the Representative of the Secretary-General on the human rights of internally displaced persons, in 2010, 2009, 2008 and 2005.

2. The Special Rapporteur met with the President of Georgia; the Minister, the First Deputy and the Deputy Minister for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia; the Minister and the First Deputy Minister of Foreign Affairs; the State Minister for Reconciliation and Civil Equality (then the State Minister for Reintegration); the Minister of Regional Development and Infrastructure; the Minister of Health, Labour and Social Affairs; the Minister of Agriculture; the Chairman of the Supreme Court; the Speaker of the Parliament; the Chairperson of the Human Rights and Civil Integration Committee; and the Chairman of the Legal Affairs Committee. The Special Rapporteur also met with the Public Defender of Georgia and held meetings with representatives of civil society and with members of the international community accredited in the country.

3. The Special Rapporteur visited Tbilisi, and met with internally displaced persons in Shida Kartli and Poti. Those meetings were organized by the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA), respectively. The Special Rapporteur regrets that access to Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, was denied by the authorities in control there, which prevented him from visiting those areas, as he had intended.

4. The Special Rapporteur expresses his sincere gratitude to the Government of Georgia for its full cooperation. The Special Rapporteur is also grateful to all his interlocutors, especially internally displaced persons who kindly shared their experiences and different perspectives with him. He looks forward to a fruitful and continued dialogue with the Government and other stakeholders on the implementation of the recommendations contained in this report.

5. The visit was ably coordinated by the office of the Human Rights Adviser for the South Caucasus of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNHCR. The Special Rapporteur is grateful for all the logistical, administrative and substantive support he received, which facilitated the conduct of the visit. He would also like to thank the United Nations Resident Coordinator and the country team, as well as the Representative of the Secretary-General for Georgia for their informative briefings and advice.

6. While in Georgia, the Special Rapporteur participated in the seminar, "Working towards durable solutions: ways forward for internally displaced persons in Georgia", organized by the Norwegian Refugee Council, as well as in a seminar organized by the Internally Displaced Women's Association "Consent". The Special Rapporteur expresses his gratitude to the organizers of those valuable seminars.

7. The present report is intended to provide an updated assessment of the human rights situation of internally displaced persons in Georgia. An updated overview of the legal framework for the protection of the rights of internally displaced persons and an analysis of the challenges and progress made in that regard are provided in section II. Section III

discusses current opportunities and challenges for an integrated approach to the situation of internally displaced persons, in the context of the onset of a new registration exercise for all internally displaced persons, and the obstacles to achieving durable solutions to displacement. Section IV contains the Special Rapporteur's findings and action-oriented recommendations for the Government of Georgia, civil society, the international community and internally displaced persons.

8. While the durable solutions should be approached from a humanitarian and development perspective and not be dependent on a political settlement, the continuing absence of a political solution to the conflict, in addition to the worrying security and human rights situation and inadequate housing conditions, continues to remain a major obstacle to achieving durable solutions for internally displaced persons from Abkhazia, Georgia, and from the Tskhinvali region/South Ossetia, Georgia. The Special Rapporteur reiterates the recommendation made by his predecessor and calls upon all parties to take all necessary measures to ensure that all internally displaced persons can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to locally integrate or to resettle elsewhere in the country.[1] Against this background, the Guiding Principles on Internal Displacement[2] (Guiding Principles) represent a crucial tool for public policy. They should be used as a practical guide to ensure that Georgia assumes its responsibility to act with due diligence in providing protection, assistance, reintegration and development support for internally displaced persons.

9. The Special Rapporteur notes that the Government's general approach to internal displacement is based on the temporary nature of displacement, so that it considers that assistance and protection to internally displaced persons should also be temporary. A senior government official indicated that the Government sought to strike a balance between unifying the country and finding a viable solution for internally displaced persons. The Special Rapporteur considers that, while return to place of residence and unification of the country might be two interrelated matters, an inclusive and integrated approach to displacement that takes into account the voluntary nature of return, in line with the international standards laid out in the Guiding Principles,[3] is necessary.

II. Protection of and assistance to internally displaced persons in Georgia

A. Legal protection

10. The Special Rapporteur welcomes the recent steps taken by Georgia to strengthen the legal framework for the protection of the rights of internally displaced persons. A draft law on internally displaced persons-persecuted persons from the occupied territories of Georgia was being drafted at the time of the visit.[4] The Special Rapporteur appreciates the fact that the draft law seeks to address one of the main concerns reiterated by his predecessor regarding internally displaced persons.[5] The political will shown by the Government of Georgia and relevant stakeholders in addressing gaps in the national

[1] A/HRC/16/43/Add.3, para. 37; see also A/HRC/13/21/Add.3 and Corr.1 and 2, para. 47; A/HRC/10/13/Add.2 paras. 59–61; and E/CN.4/2006/71/Add.7, paras. 48.

[2] E/CN.4/1998/53/Add.2.

[3] Ibid., principle 28.

[4] The draft law was subsequently adopted in February 2014 and entered into force on 1 March 2014, abrogating the 1996 Law of Georgia on Forcibly Displaced Persons-Persecuted Persons.

[5] See A/HRC/16/43/Add.3.

legislation on internally displaced persons and ensuring its compliance with international standards is to be recognized. Consultations were held between MRA and other stakeholders, including other relevant ministries, civil society and UNHCR, during the drafting of the law, and a number of provisions were incorporated on the basis of that exchange of views.[6]

B. Progress made and remaining challenges

11. The draft law contains several important provisions which align the Georgian legal framework on internally displaced persons with the Guiding Principles. Article 5 of the draft law grants protection to "every person living in Georgia", and provides for the Government to have the prerogative to undertake preventive measures to avoid displacement and protracted displacement; to minimize the negative consequences of displacement; and to ensure that internally displaced persons enjoy their rights to life, dignity, safety and freedom when displacement is inevitable.

12. Improvement of the socioeconomic conditions of internally displaced persons had already been addressed by the previous mandate holder, who had insisted that the Government not rely solely on the market to provide livelihood opportunities.[7] With the new legislation, the economic and social protection of internally displaced persons is guaranteed with respect to the right to an allowance and social assistance (arts. 11 and 12), family unity and adequate housing (art. 13), rights relating to living space (art. 14), the protection of property rights (art. 15) and the right to social protection (art. 16). The Special Rapporteur considers that this is a significant step towards ensuring greater access to social protection for all internally displaced persons.

13. Articles 6 and 7, respectively, of the draft law expand the definition of "internally displaced person" and prohibit discrimination on the grounds of displacement. With the new legislation, all citizens of Georgia and stateless persons residing in Georgia are protected from displacement. However, while discrimination on the grounds of displacement is prohibited for all, the definition of "internally displaced person" is exclusive to situations of forced displacement as a result of "occupation of the territory by a foreign State, aggression, armed conflict, mass violence and/or massive human rights violations". The Special Rapporteur was informed that the Government planned to develop legislation for communities displaced as a result of environmental changes, known as "eco-migrants". He encourages the Government of Georgia to ensure that the proposed legislation indeed defines the rights and guarantees for legal, economic and social protection for persons who have been internally displaced owing to natural and human-induced disasters, in accordance with applicable international standards.

14. The Special Rapporteur notes that the draft law on internally displaced persons-persecuted persons from the occupied territories of Georgia contains no provisions for persons with specific needs, including women, persons with disabilities, refugees, migrant workers, children, stateless persons and the elderly. The Special Rapporteur was informed by the Government that the rights of individuals with special needs, including internally displaced persons, were regulated by the Law of Georgia on Social Protection of Individuals with Disabilities; that the specific needs of internally displaced persons during the resettlement process were considered in Ministerial Order No. 320 of MRA, dated 9 August 2013, in which the specific needs of children and elderly people were also

[6] See UNHCR concluding observations on the seminar on the Law of Georgia on Forcibly Displaced Persons-Persecuted Persons, held in Georgia on 10 and 11 May 2013, para. 3.

[7] A/HRC/16/43/Add.3, para. 16.

considered; and that the new law of Georgia on internally displaced persons also applied to stateless persons. The Special Rapporteur also notes the Government's argument that the protection of the rights of refugees and foreigners needs a separate framework and thus their rights are regulated by the Georgian laws on Refugee and Humanitarian Status and on Legal Status of Foreigners and Stateless Persons. However, he encourages the Government of Georgia to ensure that the draft law incorporates and codifies those separate legislative instruments and legal measures applicable to internally displaced persons in a cohesive protection framework.

15. The Special Rapporteur was informed that a revised action plan for the period 2012-2014 was adopted by governmental decree on 13 June 2012. The revised action plan moves forward with durable housing solutions and contains a strong focus on socioeconomic measures for internally displaced persons. A coordination mechanism, the Steering Committee, is also provided for and has the mandate to support the socioeconomic integration of internally displaced persons, provide proper living conditions and durable housing solutions for them, eliminate their dependence on the State and include the most vulnerable internally displaced persons in the unified State social programme.[8] Monitoring the transparency of the activities for implementing programmes for internally displaced persons is also envisaged, with a special role attributed to the Steering Committee, and the involvement of other stakeholders being counted on, including that of civil society, international organizations and the Government of Georgia.[9] Similarly, article 17 of the draft law on internally displaced persons provides for participation by internally displaced persons in the implementation of activities for their integration, so that "the socioeconomic conditions necessary for safe and dignified life are created".[10] Improving the participation of internally displaced persons in the planning and implementation of programmes aimed at ensuring durable solutions is essential.

16. The Special Rapporteur welcomes the fact that civil society representatives were invited to actively participate in the formulation of the State strategy on internally displaced persons that was adopted in 2007. That positive experience could inspire the planning of future activities. In particular, the Government should provide better information and systematically consult with internally displaced persons themselves so that they can participate in decisions that directly affect them.

III. Search for durable solutions for internally displaced persons in Georgia

A. New opportunities for an integrated approach to the situation of internally displaced persons in Georgia

17. Solutions can only be considered to be "durable" if they are sustainable and a number of conditions are fulfilled, including enjoyment by the persons concerned of the protection of the State of nationality (for citizens) or residence; the voluntariness of the decision to return or settle elsewhere; the prevalence of safety and security in areas of settlement or return; real prospects for restitution of or compensation for lost property; no

[8] Georgia, "Action Plan for the Implementation of the State Strategy on Internally Displaced Persons during 2012-2014", para. 5.2. Available from http://mra.gov.ge/res/docs/201311211211332665.pdf.

[9] Ibid., para. 5.5.

[10] Georgia, Draft law on internally displaced persons-persecuted persons from the occupied territories of Georgia, art. 17.3.

discrimination in the enjoyment of rights and equal access to public services and economic opportunities.[11]

18. In that context, the Special Rapporteur stresses the primary responsibility of States to facilitate durable solutions to displacement. Such solutions include, in accordance with the Guiding Principles, sustainable reintegration at the place of origin (return), sustainable local integration in areas where internally displaced persons take refuge (local integration) and sustainable integration in another part of the country (settlement elsewhere in the country).[12]

19. The Special Rapporteur notes with satisfaction that the 2007 State strategy for internally displaced persons, for the first time, reflected a commitment by the Government to provide durable solutions and allow for local integration of all internally displaced persons — a shift from the previous exclusive focus on their return. After new displacements occurred in August 2008 as a result of the conflict on the territory of Georgia, government assistance focused on durable housing options for both old and new caseload internally displaced persons. The Special Rapporteur believes that a stronger focus on needs-based approaches targeting the most vulnerable would improve the efficiency of government assistance to internally displaced persons. There is some recognition that internally displaced persons share some of the same socioeconomic challenges as other vulnerable groups in the country, and the advocacy efforts promoting a better inclusion of internally displaced persons into major government reforms and assistance schemes should build upon the 2013 United Nations Development Programme (UNDP) publication, *Economic and social vulnerability in Georgia*,[13] which also refers to internally displaced persons.

20. The Special Rapporteur welcomes the three phases of the action plan, namely, the renovation of living space in some collective centres and the transfer of ownership rights to the occupants; the construction of new apartment blocks and transfer of ownership; and financial support for families to buy or improve their own housing. The Special Rapporteur also welcomes the parallel implementation of the first and second phases of the action plan.

21. The Special Rapporteur appreciated the organization by the Norwegian Refugee Council of the seminar, "Working towards durable solutions: ways forward for internally displaced persons in Georgia". The seminar was an excellent opportunity to hear what relevant actors are doing with regard to achieving durable solutions for displacement, and to explore different avenues to overcome current obstacles to return.

22. A key element for achieving durable solutions has been the implementation of a new registration exercise for all internally displaced persons, which began on 1 August 2013.[14] The process was regulated by Ministerial Order No. 287 of 16 July 2013, issued by MRA. Registration of internally displaced persons continued until 27 December 2013, but they were still able to register at the central MRA office in Tbilisi until 1 April 2014. Subsequent to the end of the registration exercise, internally displaced persons can still register by contacting the MRA hotline to schedule an appointment for registration.

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[11] See UNHCR, Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons*, June 2010. available from http://www.unhcr.org/4c2355229.html.

[12] A/68/225, para. 23.

[13] Franziska Gassmann, George Berulava and Michael Tokmazishvili, *Economic and social vulnerability in Georgia* (UNDP, 2013). Available from http://www.undp.org.ge/index.php?lang_id=ENG&sec_id=24&info_id=11751.

[14] See UNHCR, "Monitoring of IDP Registration in Georgia (15 September–14 October 2013)", Interim Report No. 3 (Tbilisi, 22 October 2013); also Council of Europe, "Consolidated report on the conflict in Georgia (April 2013-September 2013)", 29 October 2013 (SG/Inf (2013) 38).

23. The aim of the registration exercise was to update information in the internally displaced person database regarding numbers, place of residence and family composition for all internally displaced persons. These data will be used as a basis for identifying households and individuals with a view to addressing their specific needs and finding durable solutions for them. Detailed household and individual data is essential in the context of Georgia, given the need for targeted assistance programmes with regard to housing, livelihoods, local integration and durable solutions. The results of the registration will also be used to update the national policy on internally displaced persons as well as serve as a monitoring tool to evaluate the interventions supporting the populations affected by displacement.

24. Although MRA had conducted registration exercises in the past and has a comprehensive database, most of the data are outdated and do not correctly reflect the current place of temporary residence nor the exact family composition of internally displaced persons, among other things.

25. Until now, the main focus was on internally displaced persons living in collective centres, while assessment of internally displaced persons living in private accommodation remained limited. Hence, the new registration exercise will help to better identify all categories of internally displaced persons.

26. The Special Rapporteur was informed that housing assistance was included in the 2007 State strategy for internally displaced persons as one of the main areas of focus. Ownership has been regarded as the only acceptable form of tenure security. In many cases, there is a lack of baseline data that would enable the interventions to be truly needs-based. Moreover, the selection processes for government housing assistance are marked by a lack of transparency and have often been at odds with the agreed procedures and criteria.[15]

27. Furthermore, the privatization process through which internally displaced persons may be offered ownership of their living spaces in collective centres is a commendable initiative that offers good potential for durable housing solutions for many internally displaced persons. Initiated in 2009, the process almost came to a halt in 2010 and 2011, which created a large backlog and also added legal uncertainty about the current status of and future plans for specific collective centres.

28. The Special Rapporteur welcomes the Government's reactivation of the privatization process in 2012, with some 7,000 families being granted ownership of their living units in the run-up to the October 2012 elections. Nevertheless, a certain lack of transparency in the process, in 2012, made it difficult to assess the quality and the final impact of that round of privatization. The MRA-led Privatization Working Group is being reactivated in order to constitute a forum to analyse remaining challenges and to provide regular updates on the privatization process throughout Georgia.

29. On the other hand, internally displaced persons currently living in private accommodation have largely been left out of the Government's current housing programmes, despite the fact that many live in inadequate housing situations.[16] For this rather diverse group of internally displaced persons, it is crucial that data on their socioeconomic needs, including housing, is gathered in order to inform tailor-made housing assistance. The Special Rapporteur welcomes the fact that several international actors,

[15] See Public Defender of Georgia, *Annual Report 2012: The situation of human rights and freedoms in Georgia*, chapter on human rights conditions of the internally displaced persons, p. 348 and following.

[16] For more details, see Norwegian Refugee Council, "Privately accommodated internally displaced persons in Georgia: needs assessment", 2013.

including UNHCR and the Norwegian Refugee Council, have successfully implemented housing schemes for internally displaced persons living in private accommodation over the years, an experience that could be replicated within the Government's housing programmes.

30. The Special Rapporteur regrets that the involvement of internally displaced persons in the planning and implementation of housing programmes that affect them has been reportedly non-existent. Also, specific vulnerabilities of internally displaced persons have not been major criteria for the design of solutions or for the selection of beneficiaries, to date.

31. During his visit, the Special Rapporteur went to Poti accompanied by officials from MRA. The construction work in Poti is being carried out in the framework of a project entitled IDP III, which is funded by the European Union. Construction work is in progress for seven new apartment blocks, which will provide accommodation for about 280 families. The work is being funded through the Municipal Development Fund of Georgia.

32. At several meetings with government officials, it was stressed that providing internally displaced persons with durable housing solutions remained a high priority for the Government in 2013. The implementation of the State strategy on internally displaced persons based on the updated action plan would continue throughout 2013 and would cover the housing needs of internally displaced persons living in collective centres. In 2013, the MRA budget was doubled in order to improve the living conditions of internally displaced persons and provide them with decent and durable housing. As already mentioned, the construction of seven apartment blocks in Poti for about 280 internally displaced families is in progress, with the financial support of the European Union, and the preparatory work for the rehabilitation of 28 apartment blocks is under way.

33. The Special Rapporteur welcomes the fact that MRA has provided apartments to 480 internally displaced families and has also rehabilitated 15 apartment blocks for 425 internally displaced families (i.e. 1,300 internally displaced persons). Furthermore, MRA received 32 buildings from the Ministry of Economy, which will be rehabilitated to accommodate internally displaced persons in Tbilisi, Rustavi, Kutaisi, Akhaltsikhe, Zugdidi, Martvili, Poti and Makhinjauri, among other places.

34. According to governmental sources, some progress has been made in the transfer of ownership of private accommodations to some 876 internally displaced families. About 746 extremely vulnerable internally displaced families received one-time monetary support from MRA. MRA also covered the accommodation rent for 71 extremely vulnerable internally displaced families.

35. During the mission, the Special Rapporteur visited the joint UNHCR-UNDP agricultural project in Kaspi, Shida Kartli region, and welcomes this innovative contribution. The main objective is to develop rural livelihoods for the vulnerable internally displaced communities and their host communities through a return to small-scale farming and an increase in the productivity levels in Shida Kartli. This joint agricultural project will contribute to raising household income for farming families and increasing food security at the household level.

36. The joint agricultural project is aimed at increasing resources and achieving more sustainable development through collective efforts. Its main goal is to provide a strategy for transition from direct individual humanitarian assistance to sustainable development for both internally displaced persons and their host communities in Shida Kartli. The Special Rapporteur commends this project as a good model for joint efforts by humanitarian and development actors towards finding durable solutions.

37. There are 16,811 internally displaced persons residing in Shida Kartli.[17] In addition, there are 33,965 people in 40 conflict-affected villages along the administrative boundary line, who have returned to their homes and are in a situation similar to that of internally displaced persons.[18]

38. Living conditions for many communities in the region are harsh. The 2008 conflict led to widespread destruction of property and the displacement of a large number of people. The lack of employment opportunities in Georgia and the discontinuation of trade opportunities in newly inaccessible areas have affected both the displaced and the resident population.

39. Agriculture in Shida Kartli is one of the main sources of income, mostly owing to the high fertility of the soil in the region. However, there is a lack of irrigation water and restricted storage capacity for their crops.

40. The joint agricultural project reaches out to the entire population with the aim of enhancing the integration of the internally displaced population and preventing social tensions due to perceived inequality and addressing poverty. The joint project represents a comprehensive approach to supporting the most vulnerable internally displaced communities in Shida Kartli. The programme will deliver long-term benefits to internally displaced persons and their host communities. The project envisages establishing a value chain to link farmers with farmers' associations, and agricultural processing facilities with service providers. It aims, inter alia, to strengthen capacity through training, extension support and access to markets. The joint project will also rehabilitate a kindergarten in Dvani, a village affected by razor wire fencing, and construct a drinking water source in Kaspi Municipality. The target groups are the host communities and persons internally displaced from the 2008, or earlier, conflicts in the Kaspi Municipality area (Teliani, Khovle, Doesi and Grakali).

41. The main project activities include providing support to farmers in order to help them increase yield and productivity, including quality training and advice by the farmers' association, and demonstrations of food processing and preservation. The project is also helping to improve access to agricultural markets through harvest consolidation and long-term contracts.[19]

42. The Special Rapporteur notes with satisfaction the decision of the Constitutional Court that internally displaced persons from villages adjacent to the Tskhinvali region/South Ossetia, Georgia, are entitled to the same rights as internally displaced persons from the region. The decision was handed down during the Special Rapporteur's visit. The applicants were persons who had been displaced from a village adjacent to, but falling outside of, the Tskhinvali region/South Ossetia, Georgia. Their complaint challenged the compatibility of a clause relating to the definition of an internally displaced person in the law on internally displaced persons (amended in December 2011), which strictly limited internally-displaced-person status to persons who had been displaced from the occupied territories, with article 14 of the Constitution of Georgia relating to the principle of equality and non-discrimination.

43. Reiterating that the principle of equality enshrined in article 14 of the Constitution required the State to treat equally persons who were essentially in equal situations, the

[17] See UNHCR, "Monitoring of IDP Registration in Georgia (15 September–14 October 2013)", Interim Report No. 3 (Tbilisi, 22 October 2013).

[18] Data as of December 2013, from UNHCR.

[19] See UNDP-UNHCR joint programme, "Livelihood development of vulnerable communities in Shida Kartli region".

Constitutional Court found that the applicants and persons displaced within the Tskhinvali region/South Ossetia, Georgia, were essentially equal since the reasons for their displacement, and their protection concerns, were the same. In the light of that decision, the Special Rapporteur affirms his support for the technical capacity project agreed with the Supreme Court to collect and collate decisions taken by courts in Georgia on internally displaced persons, and for the organizing of a judicial workshop on the European Convention on Human Rights. As the above-described case also involved civil society and the Georgian Young Lawyers Association, the involvement of civil society in that project would be critical. Also in the light of the Constitutional Court's decision, the Special Rapporteur recommends that the Government of Georgia ensure that all internally displaced persons enjoy the right to an adequate standard of living.

B. Obstacles to achieving durable solutions to internal displacement in Georgia

44. According to data provided by the Ministry of the Interior, there are 246,549 internally displaced persons in Georgia.[20] The Special Rapporteur expressed his concern that the majority of the internally displaced from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, have been unable to return to their homes. The prospects of return for those displaced remain poor for several reasons, including concerns for their security. As described in the report of the Representative of the Secretary-General on his follow-up mission to Georgia,[21] the biggest challenge still remains the integration of internally displaced persons who have been living in protracted displacement for over 20 years. The Special Rapporteur is concerned about the continued lack of integration of those affected by the 1993 conflict.

45. One of the main obstacles to the achievement of durable solutions has been the installation of coiled razor wire fences along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, which have adverse effects on the internally displaced persons. The installation of those barriers accelerated in 2013.[22]

46. The Special Rapporteur is also concerned about the effects that the coiled razor wire fence has on the local population since it creates a tangible obstacle to access to land, property, water and livelihood activities. The Special Rapporteur welcomes the establishment in Gori of a monitoring group on socioeconomic and infrastructural problems affecting the villages along the administrative boundary line. The monitoring group is expected to evaluate the effects on the local population along the boundary line, in terms of loss of access to personal property, communal property and natural resources, as well as the direct effect of those losses on the livelihoods of the local population. The monitoring group will also evaluate other specific concerns, such as legal protection, physical safety and freedom of movement.

47. The fencing process along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, reportedly accelerated in 2013. A monitoring group was established early in 2013, and in July and August 2013, UNHCR and local authorities initiated the monitoring of villages affected by the new fencing measures. The Special

[20] See UNHCR, "Monitoring of IDP Registration in Georgia (15 September–14 October 2013)", Interim Report No. 3 (Tbilisi, 22 October 2013).

[21] A/HRC/10/13/Add.2.

[22] See UNHCR, "Interim monitoring report on borderization measures in Gori municipality, Shida Kartli" (internal document); also Council of Europe, "Consolidated report on the conflict in Georgia (April 2013-September 2013)", 29 October 2013 (SG/Inf (2013) 38).

Rapporteur witnessed the installation of fences in Gugutiantkari and expressed his concern that internally displaced persons living in adjacent villages might be seriously affected by issues such as blocked access to land, water and livelihood activities, which would result in inadequate living conditions. Further collateral effects of the fencing process would be the resulting security issues, restricted freedom of movement and residence, limited access to property, including to farm land, houses, churches and cemeteries, which would result in a further decrease of people-to-people contacts and a lack of income-generating activities.[23]

48. The Special Rapporteur was informed[24] that an estimated 45,000 internally displaced persons spontaneously and/or seasonally returned to their homes in the Gali district in Abkhazia, Georgia, over the years and that they had maintained their status as internally displaced persons and continued to receive the related allowances. The Special Rapporteur regrets that those spontaneous returnees continue to face difficult living conditions, including housing and livelihood issues, and restrictions on their freedom of movement. The Special Rapporteur visited collective centres in Shida Kartli, where internally displaced persons from the 1993 conflict were living in deplorable conditions. He stressed the importance of ensuring that the rights of those internally displaced persons were guaranteed on a non-discriminatory basis, jointly and simultaneously with the rights of later waves of internally displaced persons.

IV. Conclusions and recommendations

49. **The Special Rapporteur on the human rights of internally displaced persons acknowledges the Government's progress in the search for durable solutions for all internally displaced persons in Georgia. Nevertheless, further joint efforts are necessary to overcome the obstacles to durable solutions. In this spirit, the Special Rapporteur presents the following conclusions and recommendations.**

50. **New opportunities now exist for the adoption of an inclusive integrated approach for all waves of internally displaced persons in Georgia, in accordance with the international standards contained in the Guiding Principles on Internal Displacement. The new opportunities include the proposed revised legislation on internally displaced persons; the realignment of the 2007 Action Plan for the Implementation of the State Strategy on Internally Displaced Persons with the proposed law; the onset of a new registration exercise for all internally displaced persons that should also profile their vulnerability and needs; and the formulation by the Government of inclusive policies in the fields of health, land, agriculture, education and employment-generating activities. In the latter connection, the Special Rapporteur recommends that the Government ensure that the new policies target internally displaced persons, including internally displaced persons with disabilities, so as to improve their livelihoods and combat their vulnerability in the country.**

51. **The Special Rapporteur commends the continuing commitment by State authorities to improving the living conditions of internally displaced persons by providing durable housing to those who were displaced as a result of the 2008 conflict. However, there is an urgent need to improve the living conditions and livelihood opportunities of internally displaced persons who were displaced in the early 1990s, and who are still living in collective centres in deplorable conditions. The Special**

[23] UNHCR, "Interim monitoring report on borderization measures in Gori municipality, Shida Kartli" (internal document).

[24] See Norwegian Refugee Council/Internal Displacement Monitoring Centre, "Briefing note on the Special Rapporteur's visit to Georgia".

Rapporteur encourages the Government of Georgia to take all necessary measures to guarantee adequate living conditions to all internally displaced persons in conformity with the Guiding Principles on Internal Displacement. In that connection, the Special Rapporteur urges the Government to initiate the rehabilitation of collective centres and the building of new housing and livelihood programmes that would allow the affected internally displaced persons, in particular those from the conflict in the 1990s, to enjoy the right to an adequate standard of living, in conformity with principle 18 of the Guiding Principles.

52. The Special Rapporteur welcomes the new registration exercise for internally displaced persons, which started on 1 August 2013. That exercise is crucial to addressing specific needs and identifying opportunities for durable solutions for all internally displaced persons. Detailed household and individual data are essential in the context of Georgia, given the need for targeted assistance programmes in relation to housing, livelihood, local integration and durable solutions. In that regard, the Special Rapporteur recommends that the Government make the best possible use of such data in order to design or update national policy on internally displaced persons. The new registration exercise should also be used as a tool for monitoring and evaluating populations affected by displacement. Moreover, the Special Rapporteur recommends that the Government ensure that the situation of internally displaced persons living in private accommodation is also addressed following the registration exercise.

53. The Special Rapporteur is concerned that most internally displaced persons suffer from inadequate living conditions, unemployment and lack of livelihoods. In that respect, the Special Rapporteur recommends that the Government integrate internally displaced persons into broader development plans and initiatives, rather than developing a comprehensive strategy on livelihoods for internally displaced persons only.

54. The Special Rapporteur encourages the Government to share information relating to the enhancement of living conditions and other livelihood measures with internally displaced persons, international partners and civil society. He also encourages the Government to consult with internally displaced persons and enable their involvement in decisions affecting them. This is of the utmost importance in establishing conditions and means for achieving durable solutions for internally displaced persons in safety and dignity, based on their informed and voluntary choice of durable solutions.

55. The Special Rapporteur urges the Government to ensure the full and effective enjoyment of the human rights of internally displaced persons, in particular women, to access land and property. Moreover, the enjoyment of internally displaced persons of the right to housing, land and property is an essential component of the building of durable solutions. The Special Rapporteur reminds the Government that internally displaced persons are entitled to restitution of or compensation for their property, regardless of whether they choose to return, integrate locally or resettle elsewhere.

56. The Special Rapporteur strongly condemns the installation of the coiled razor wire fence along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, which has the effect of depriving internally displaced persons of their freedom of movement and livelihoods, as well as preventing access to land and property, and calls on those responsible for installing the fence to stop the process and remove all installed barriers. The Special Rapporteur recommends that the Government ensure effective monitoring of the protection of the human rights of the internally displaced persons concerned. Furthermore, the Special Rapporteur recommends that the Government of Georgia and the de facto authorities of South

Ossetia ensure the full enjoyment of the human rights of those internally displaced persons, including the rights relating to freedom of movement and access to livelihoods.

57. The Special Rapporteur notes with satisfaction the decision of the Constitutional Court that internally displaced persons from villages adjacent to the Tskhinvali region/South Ossetia, Georgia, are entitled to the same rights as internally displaced persons from that region. Furthermore, he recommends that the Government ensure that all internally displaced persons enjoy the right to an adequate standard of living.

58. The Special Rapporteur commends the Government for its efforts in drafting revised legislation on internally displaced persons, and recommends that that law be in conformity with international human rights standards, in particular the Guiding Principles on Internal Displacement. Particular attention should be paid to vulnerable groups among the internally displaced to ensure that they are able to fully enjoy their rights. The Special Rapporteur notes that the Government is planning to pass a new law on eco-migrants; he encourages the Government to ensure that the proposed draft law indeed defines the rights and guarantees for legal, economic and social protection for persons internally displaced as a result of natural and human-induced disasters, in accordance with international standards.

59. The Special Rapporteur recommends that the Government ensure that the definition of an internally displaced person in the draft law on internally displaced persons as well as in the proposed draft law on eco-migrants is in conformity with the definition contained in the Guiding Principles on Internal Displacement. Furthermore, the Special Rapporteur is concerned about the lack of consultation with internally displaced persons themselves regarding the draft law and encourages the Government to consult with internally displaced persons on decisions and legislation affecting them.

60. The Special Rapporteur recommends that the action plan to implement the 2007 State strategy on internally displaced persons be reviewed, and that it be revised and updated, as necessary, on a regular basis in order to take into account the evolving needs of internally displaced persons, including, in particular, those living in collective centres or in private property. It is crucial that civil society and the internally displaced persons themselves be fully consulted in the review and implementation of the action plan.

61. The Special Rapporteur commends the Government and, in particular, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees for the efforts made to build new houses for internally displaced persons affected by the 1990s and the 2008 conflicts. It is important that shelter solutions be made durable through a needs-based approach. In that regard, the Special Rapporteur encourages the Government to move forward with the integration process through systematic efforts which go beyond infrastructure and give more attention to the creation of employment and livelihood opportunities for internally displaced persons.

62. One of the main obstacles in the search for durable solutions for internally displaced persons in Georgia remains the absence of political solutions to the conflict, as has been already observed by the previous mandate holder in his reports. In that connection, the Special Rapporteur calls upon all parties to approach durable solutions from a humanitarian and development perspective and to take all necessary measures to ensure that all internally displaced persons can exercise their right to

make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to locally integrate or to resettle elsewhere in the country.

63. **The Special Rapporteur welcomes the joint UNHCR-UNDP programme on livelihood development in Shida Kartli and encourages the relevant United Nations agencies to develop further joint projects to the benefit of the sustainability of solutions for internally displaced persons.**